

DOCKET NO: 282545US8X PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
ROBERT MARK STEFAN PORTER, ET : EXAMINER: CHIA-WEI A. CHEN
AL.
SERIAL NO: 10/537,275 :
FILED: MARCH 6, 2006 : GROUP ART UNIT: 2622
FOR: VIDEO CAMERA :
:

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement dated September 9, 2009, Applicant provisionally elects, *with traverse*, Species I for further examination on the merits. Applicant identifies Claims 29-35 and 46-53 as encompassing the provisionally elected species. Applicant also identifies Claims 29 and 46-53 as generic, and reserves the right to file one or more divisional applications directed to the non-elected species. The Restriction Requirement is traversed for the following reasons.

The Restriction Requirement was presented under 37 C.F.R. §1.142 as though this application was filed under 35 U.S.C. §111. However, as noted in the Official Filing Receipt, this application is a National Stage application under 35 U.S.C. §371 of PCT/GB03/05224. Consequently, this application is not subject to restriction practice under 37 C.F.R. §1.142,¹ and it is respectfully submitted the Restriction Requirement is thus improper and should be withdrawn.

¹ E.g., see MPEP §1896.

Since this application is a national stage application under 35 U.S.C. §371, examination in view of the PCT is required. In particular, “[i]f the examiner finds that a national stage application lacks ***unity of invention under [37 C.F.R.] §1.475***, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted.”² Consequently, the Office is reminded,

When making a lack of unity of invention requirement, ***the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group*** (i.e., why there is no single general inventive concept) ***specifically describing the unique special technical feature in each group.***³

It is respectfully submitted the above-noted requirements have not been established in the record, and thus a lack of unity requirement has not be established. Further, it is respectfully submitted this application does not lack unity of invention under 37 C.F.R. §1.475, and the Patent Office may not require Applicant to elect an invention to which the claims shall be restricted under 37 C.F.R. §1.499.

Accordingly, it is respectfully submitted examination on the merits of Claims 29-53 is in order. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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² 37 C.F.R. §1.499; *see also* 37 C.F.R. §1.475 and PCT Rule 13.1.

³ MPEP §1893.03(d) (emphasis added).